

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:07CR3005
)	
V.)	
)	MEMORANDUM
RICHARD FLEMING,)	AND ORDER
)	
Defendant.)	

The defendant has appealed Judge Piester's memorandum and order terminating the appointment of the Federal Public Defender. Having reviewed the submissions of the parties, and realizing that the regulations provide that "[a]ny doubts as to a person's eligibility should be resolved in his favor" and that "erroneous determinations of eligibility may be corrected at a later time[.]" Vol. VII, § 2.04, *Guide to Judicial Policies and Procedures*, at p. 8 (March 23, 2005),

IT IS ORDERED that:

1. The Appeal (filing [74](#)) is sustained in part and denied in part as provided herein. Judge Piester's order (filing [73](#) at CM/ECF p. 28) is vacated.
2. The Federal Public Defender shall continue to represent the defendant until and unless the undersigned orders otherwise.
3. Prior to the entry of a judgment in this case, but after the guilt or innocence of the defendant has been determined and after all sentencing issues have been resolved, the Federal Public Defender shall call this matter to my attention. After that, I will schedule and hold a hearing to determine whether the defendant is obligated to reimburse the United States for the costs of providing counsel and whether the Federal Public

Defender will be obligated to represent the defendant on appeal or in other subsequent proceedings.

November 12, 2008.

BY THE COURT:

S/Richard G. Kopf
United States District Judge